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ATTORNEY FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

**NATIVE ECOSYSTEMS COUNCIL,
and ALLIANCE FOR THE WILD
ROCKIES,**

Plaintiffs,

vs.

**TOM TIDWELL, Northern Region
Regional Forester, and UNITED
STATES FOREST SERVICE, an
agency of the U.S. Department of
Agriculture,**

Defendants.

CV 08-173-M-DWM

**DEFENDANTS' UNOPPOSED
MOTION TO DISMISS
COMPLAINT**

The Federal Defendants, by and through their counsel, move the Court to dismiss the complaint. The grounds for this motion are set forth below.

As noted in the attached letter from Charlene F. Bucha Gentry dated February 25, 2009, (Exhibit A) and in the wake of changed conditions in the area of the proposed project, the Forest Service has withdrawn the decision authorizing the Barton Springs Thinning project on the Beaverhead-Deerlodge National Forest . Therefore, dismissal of the complaint is warranted and appropriate. Counsel for the Plaintiffs has been contacted and does not oppose this motion.

DATED this 26th day of February, 2009.

WILLIAM W. MERCER
United States Attorney

/s/ Mark Steger Smith
MARK STEGER SMITH
Assistant U.S. Attorney
Attorney for Federal Defendants

CERTIFICATE OF SERVICE

I certify that on the 26th day of February, 2009, the United States Attorney's Office served copies of the attached document by CM/ECF as follows:

Addressee(s):

Timothy M. Bechtold
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Attorney for Plaintiffs

/s/ Mark Steger Smith
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